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IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

MANUEL AREVALO, JR.,

Defendants.

1:20-CV-01421-DAD-JLT

**[PROPOSED] ORDER TO SHOW CAUSE
RE: TAX SUMMONS ENFORCEMENT**

Date: December 16, 2020
Time: 9:30 a.m.
Judge: The Honorable Jennifer L. Thurston

Upon the petition of Steven Tennyson, Assistant United States Attorney for the Eastern District of California, including the verification of Revenue Officer Michael Papasergia and the exhibits attached thereto, it is hereby:

ORDERED that the Respondent Manuel Arevalo, Jr., appear before United States Magistrate Judge Thurston in the United States Courthouse, 510 19th Street, Bakersfield, California, on Wednesday, December 16, 2020 to show cause why he should not be compelled to obey the IRS summons issued on October 4, 2019.

It is further ORDERED that:

1. Judge Thurston will preside, under 28 U.S.C. § 636(b)(1) and Local Rule 302(c)(9), at the hearing scheduled above. After hearing, the Court intends to submit proposed findings and recommendations under Local Rule 304(a), with the original thereof filed by the Clerk and a copy provided to all parties.

2. Under Fed. R. Civ. P. 4(c)(1), the Court hereby appoints the investigating IRS employee, and all federal employees designated by that employee, to serve process in this case.

3. To afford Respondent an opportunity to respond to the Petition and Petitioner an opportunity to reply, a copy of this order, the Petition and its Exhibits, and the Points and Authorities, shall be served by delivering a copy to Respondent personally, or by leaving a copy at Respondent's dwelling house or usual place of abode with some person of suitable age and discretion then residing therein, or by any other means of service permitted by Fed. R. Civ. P. 4(e), at least 30 days before the show cause hearing date including any continued date, unless such service cannot be made despite reasonable efforts.

4. Proof of any service done under paragraph 3, above, shall be filed with the Clerk as soon as practicable.

5. If the federal employee assigned to serve these documents is not reasonably able to serve the papers as provided in paragraph 3, Petitioner may request a court order granting leave to serve by other means. *See* Fed. R. Civ. P. 81(a)(5). The request shall detail the efforts made to serve Respondent.

6. The Petition reflects a *prima facie* showing that the investigation is conducted pursuant to a legitimate purpose, that the inquiry may be relevant to that purpose, that the information sought is not already within the Commissioner's possession, and that the administrative steps required by the Code have been followed. *See United States v. Powell*, 379 U.S. 48, 57-58 (1964). The burden of coming forward therefore has shifted to whomever might oppose enforcement.

7. If Respondent has any defense or opposition to the Petition, such defense or opposition shall be made in writing and filed with the Clerk and served on the United States Attorney at least 10 days before the show cause hearing date including any continued date.

8. At the show cause hearing, the Court intends to consider the issues properly raised in opposition to enforcement. Only those issues brought into controversy by the responsive pleadings and supported by affidavit will be considered. Any uncontested allegation in the petition will be considered admitted.

9. **Respondent may notify the Court, in a writing filed with the Clerk and served on**

1 the United States Attorney at least 10 days before the date set for the show cause hearing, that he
2 has no objections to enforcement of the summons. Respondent's appearance at the hearing will
3 then be excused.

4
5 IT IS SO ORDERED.

6 Dated: October 15, 2020

/s/ Jennifer L. Thurston
UNITED STATES MAGISTRATE JUDGE